

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JERMAIN ANDERSON,

Plaintiff

v.

C-1-05-352

LIBERTY LIFE ASSURANCE
COMPANY OF BOSTON, *et al.*,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 50) and plaintiff's objection thereto (doc. no. 51). The Magistrate Judge concluded that the Policy under which plaintiff seeks benefits is a governmental plan excluded by ERISA. The Magistrate Judge therefore recommended that the Motion for Summary Judgment filed by defendant Liberty Life Assurance of Boston be granted because this Court lacks subject matter jurisdiction over plaintiff's claims.

In his objections, plaintiff, Jermain Anderson, submits that the dismissal of the case for lack of subject matter jurisdiction should be done as a dismissal without prejudice, as the lack of subject matter jurisdiction does not reflect a final determination of the merits of the claim. *See* Fed. R. Civ. P. 41. This Court agrees.

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court hereby **ADOPTS** the Recommendation of the United States Magistrate Judge (doc. no. 50) that this Court lacks subject matter jurisdiction of this case. The Motion for Summary Judgment filed by Liberty Life Assurance Company of Boston (doc. no. 39) is **GRANTED**. This case is **DISMISSED FOR LACK OF SUBJECT MATTER JURISDICTION WITHOUT PREJUDICE** and **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court